

REMARKS

Reconsideration and removal of the grounds for rejection. Claims 1-17 were in the application, claims 4-10 were withdrawn, claims 1, 3, 4 and 11 were amended. Withdrawn claim 4 was amended to substantially track the changes to claim 1 for possible rejoinder.

Claim 1 was amended to clarify that the application of pressure initiates the thawing process and separation of the individual meat pieces forming the block, as described in paragraph 0006. Also, the balance of the thawing process is now incorporated into claim 1 so as to moot the rejection under 35 USC 112, first paragraph.

Additional changes were made to clarify the applicants invention, and to better conform to U.S. claim drafting standards, as requested by the examiner. As to the definition of diagonals, it is explained in the specification that pressure can be applied "over diagonal corners" of a meat block.(para 0030] One skilled in the art could certainly understand that the opposed corners will form diagonals of essentially square or rectangular blocks, and that pressure applied to the corners would be effective in effecting the initial displacement of the individual meat pieces frozen in the meat block. Consequently, this term is believed to be definite. Claim 11 has also been amended to clarify the pressure applied, and the rejection under 35 USC 112, second paragraph is believed to be moot.

Claim 1 and 2 were rejected as being anticipated by Higashimoto, U.S. patent no. 4,512,523.

Claims 1 and 2 are not anticipated by the '523 Patent. The applicants invention seeks to maintain the integrity of meat pieces frozen together in blocks, as stated throughout the application. Pressure is applied in an amount sufficient to initiate separation and thawing, without damaging the individual pieces "...but care should be taken not to subject the individual pieces of meat to too great mutual displacements since this involves the risk the meat fibres are torn off from the pieces of meat."(para 0060.

On the other hand, the cited patent virtually disintegrates the frozen meat

supplied:

"According to this invention, a crusher roll is rotatably installed in the elongated semi-cylindrical lower region of a hopper into which frozen meat is charged. The crusher roll has a rotary shaft which is provided with a plurality of axially spaced feed vanes, each of which is formed with a cutting edge for crushing frozen meat, said crusher roll being disposed so that the rotary shaft extends lengthwise of the semi-cylindrical bottom region of the hopper with the feed vanes and cutting edges transversely arranged with respect to the rotary shaft. Thus, when the crusher roll is rotated and frozen meat is charged from above into the hopper, the cutting edges of the feed vanes strike the charged frozen meat, so that the frozen meat is crushed by the cutting edges. Further, a plurality of projections are provided on the inner surface of the hopper, each projection disposed between adjacent feed vanes of the crusher roll. The lower region of the hopper communicates with a pipe. The plurality of projections prevent idle rotation of frozen meat. The crushed meat is pushed into the pipe by the feed vanes of the crusher roll. A main roll having a suitable feed vane, e.g., a spiral feed vane formed on its rotary shaft is rotatably installed in the pipe, so that the meat pushed into the pipe is fed to a meat processing position by the feed vane of the main roll and minced into ground meat."...(Col. 1, l. 61-col. 2, l. 20).

To have anticipation, each and every element of the claim must be found in a single prior art reference *W.L. Gore & Assoc. V. Garlock, Inc.* 721 F.2d 1540 (Fed. Cir. 1983). "Lack of novelty (often called 'anticipation') requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee" *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302, 36 U.S.P.Q.2D (BNA) 1101, 1103 (Fed. Cir. 1995) (emphasis added)

Anticipation requires the reference to describe all the elements of the claims, arranged as in the patented device. *Shearing v. Iolab Corp.*, 975 F.2d 1541, 1544-45, 24 U.S.P.Q.2D (BNA) 1133, 1136 (Fed. Cir. 1992); *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2D (BNA) 1913, 1920 (Fed. Cir. 1989); *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 894, 221 U.S.P.Q. (BNA) 669, 673 (Fed. Cir. 1984). *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340, 1349 (Fed. Cir., 1998).

Anticipation requires strict identity, without guessing what the reference discloses. *Dayco Products, Inc. V. Total Containment Inc.*, 329 F.3d 1358 (Fed. Cir. 2003). A claim cannot be “anticipated” by prior art that does not have all of the limitations in the claim. *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 1346 (Fed. Cir. 2000); *SmithKline Beecham Corp. v. Apotex Corp.*, 439 F.3d 1312, 1324 (Fed. Cir. 2006).

Clearly, claim 1 as amended is not anticipated by the '523 Patent, as there is no provision for applying pressure to initiate thawing of individual meat pieces forming a meat block..indeed, no such meat pieces are disclosed in the cited patent. Rather the meat is physically crushed and chopped which is contrary to the present invention.

Claim 3 was rejected as being obvious over the '523 Patent in view of Walter, U.S. patent no. 1,950,763.

While the examiner believed that it would be obvious to remove the packaging before processing in the '523 Patent, the more important question is whether it would be obvious to do so after processing. Clearly not, as the processing of meat according to the cited patent creates a crushed meat pressed into a pipe, and the package would likewise be pulverized accordingly. However, the applicants invention allows pressure to be applied to initiate separation and thawing, which also makes it easier to remove packaging frozen as part of the meat block. (see para 24.. "when the meat block 1 has been subjected to pressure, the inner package is completely removed.")

Consequently, claim 3 is not obvious over the cited art.

Claims 11-12 and 16 were rejected as being obvious over the '523 Patent in view of Cotner. Cotner discloses a plurality of press rams or pressure devices for compressing "bacon, meat or other material into block or angularly shaped forms." col. 1, l. 5-10.

Claim 11 is a method claim, dependent on claim 1 which has been discussed above, the method involving applying pressure to do effectively the opposite, that is, to promote the separation of a frozen meat block into individual pieces, as well as to initiate thawing, and then further requires steps to thaw the individual pieces. There is nothing in either patent cited that even describes the thawing of meat. The '523 Patent

crushes and minces a frozen meat without any thawing step...in fact it promotes avoiding this step entirely. The Cotner patent similarly fails to describe any frozen meat or methods for thawing meat. Consequently, claims 11, 12 and 16 are not rendered obvious over the combination.

Claims 13-15 were rejected as being obvious over the '523 Patent in view of Cotner and further in view of Jones, U.S. Patent no. 5,250,314.

Jones, similar to Cotner, is admittedly related to molding meat products, and has little relevance to the applicants method for separating pieces of meat and for thawing the individual pieces and so claims 13-15 are also not obvious over the combination.

Claim 17 was rejected as being obvious over the '523 Patent in view of Cotner and further in view of Bernard, U.S. Patent no. 4,060,998. As discussed above the combination of patents has little relevance to the applicants method for separating pieces of meat from a frozen meat block, in a way which avoids damaging the meat and also for initiating the thawing of meat by applying pressure. Consequently, claim 17 is not rendered obvious over the cited combination.

Based on the above amendments and remarks, favorable consideration and allowance of the application are respectfully requested. However should the examiner believe that direct contact with the applicant's attorney would advance the prosecution of the application, the examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,

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